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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

EPIC GAMES, INC.

Case No. 4:20-cv-05640-YGR-TSH

Plaintiff, Counter-defendant  
v.

**APPLE INC.'S STATEMENT IN SUPPORT  
OF ADMINISTRATIVE MOTION TO SEAL**

APPLE INC.,

The Honorable Thomas S. Hixson

Defendant, Counterclaimant

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1 Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Apple Inc. (“Apple”)  
 2 submits this statement in support of Epic Games, Inc.’s Administrative Motion to Consider Whether  
 3 Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (Dkt. 1386) (“Epic’s  
 4 Motion”). Apple respectfully requests that the Court partially seal Exhibit A to Epic’s Motion, because  
 5 it contains information sealable under controlling law and Local Rule 79-5. Exhibit A contains excerpts  
 6 from Apple’s privilege log prepared for the Special Masters conducting evaluation of the privilege claims  
 7 stemming from Apple’s re-review. The privilege log entries are required to be filed under the terms of  
 8 the Joint Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”),  
 9 but contain personally identifiable information in the form of email addresses of Apple employees and  
 10 outside counsel.

11 Apple accordingly moves to seal portions of Exhibit A containing sealable information. Apple’s  
 12 proposed redactions of Exhibit A are indicated in the redacted version filed with this statement and  
 13 itemized in the concurrently filed Declaration of Mark A. Perry (the “Perry Declaration”).

14 **LEGAL STANDARD**

15 “The court may, for good cause, issue an order to protect a party or person from annoyance,  
 16 embarrassment, oppression, or undue burden or expense,” including preventing the disclosure of  
 17 information. *See Fed. R. Civ. P. 26(c)*. The Court has “broad latitude” “to prevent disclosure of materials  
 18 for many types of information, including, *but not limited to*, trade secrets or other confidential research,  
 19 development, or confidential information.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th  
 20 Cir. 2002) (emphasis in original); *see also Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172,  
 21 1178 (9th Cir. 2006) (compelling circumstances exist to seal potential release of trade secrets) (citing  
 22 *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *PQ Labs, Inc. v. Qi*, 2014 WL 4617216,  
 23 at \*1 (N.D. Cal. Sept. 15, 2014) (granting multiple motions to seal where publication would lead to the  
 24 disclosure of trade secrets); *Apple Inc. v. Rivos, Inc.*, 2024 WL 1204115, at \*1 (N.D. Cal. Mar. 21, 2024)  
 25 (granting request to seal “internal product codenames” and noting that a prior request for the same had  
 26 also been granted). Courts often find good cause exists to seal personally identifiable information. *See,*  
 27 *e.g., Snapkeys, Ltd. v. Google LLC*, 2021 WL1951250, at \*3 (N.D. Cal. May 14, 2021) (granting motion  
 28 to file under seal personally identifiable information, including email addresses and telephone numbers

1 of current and former employees).

2 Although a party must show compelling circumstances to seal information appended to  
 3 dispositive motions, the standard for non-dispositive motions is simply “good cause.” *In re Anthem, Inc.*  
 4 *Data Breach Litig.*, 2018 WL 3067783, at \*2 (N.D. Cal. Mar. 16, 2018); *Rembrandt Diagnostics, LP v.*  
 5 *Innovacon, Inc.*, 2018 WL 1001097, at \*1 (S.D. Cal. Feb. 21, 2018); *see DNA Genotek Inc. v. Spectrum*  
 6 *Sols., L.L.C.*, 2023 WL 4335734, at \*2 (S.D. Cal. May 10, 2023). In general, requests to seal information  
 7 should be narrowly tailored “to remove from public view only the material that is protected.” *Ervine v.*  
 8 *Warden*, 214 F. Supp. 3d 917, 919 (E.D. Cal. 2016); *Vineyard House, LLC v. Constellation Brands U.S.*  
 9 *Ops., Inc.*, 619 F. Supp. 3d 970, 972 n.2 (N.D. Cal. 2021) (Gonzalez Rogers, J.) (granting a motion to  
 10 seal “because the request is narrowly tailored and only includes confidential information”).

## DISCUSSION

12 Apple seeks to seal personally identifiable information in the exhibit to Epic’s Motion. *See Perry*  
 13 Decl. ¶ 5.

14 Apple’s administrative motion to seal is subject to the “good cause” standard because it concerns  
 15 non-dispositive objections related to discovery. *See, e.g., Kamakana*, 447 F.3d at 1179 (“[T]he public  
 16 has less of a need for access to court records attached only to non-dispositive motions because those  
 17 documents are often unrelated, or only tangentially related, to the underlying cause of action.”); *Lee v.*  
 18 *Great Am. Life Ins. Co.*, 2023 WL 8126850, at \*2 (C.D. Cal. Nov. 13, 2023) (“Matters concerning  
 19 discovery generally are considered nondispositive of the litigation” (citation omitted)); *see also In re*  
 20 *Anthem, Inc. Data Breach Litig.*, 2018 WL 3067783, at \*2; *Rembrandt Diagnostics, LP*, 2018  
 21 WL1001097, at \*1; *Al Otro Lado, Inc. v. Wolf*, 2020 WL 5422784, at \*4 (S.D. Cal. Sept. 10, 2020).

22 Apple’s sealing request meets the good cause standard here. *Lamartina v. VMware, Inc.*, 2024  
 23 WL 3049450, at \*2 (N.D. Cal. June 17, 2024) (good cause to seal internal email communications). Apple  
 24 operates in an intensely competitive environment, and thus has taken extensive measures to protect the  
 25 confidentiality of its information. *See Perry Decl. ¶ 3*. Courts in this district have found not only good  
 26 cause, but compelling reasons exist to seal personally identifiable information, found in Exhibit A. *See*  
 27 *Snapkeys*, 2021 WL 1951250, at \*3 (granting motion to file under seal personally identifiable  
 28 information, including email addresses and telephone numbers of current and former employees); *see*

*also UnifySCC v. Cody*, 2023 WL 7170265, at \*1 (N.D. Cal. Oct. 30, 2023) (finding compelling reasons to seal personally identifying information of employees, including names, addresses, phone numbers, and email addresses).

Apple has narrowly tailored its sealing request to include only the information necessary to protect its personally identifiable information. *See Krommenhock v. Post Foods, LLC*, 2020 WL 2322993, at \*3 (N.D. Cal. May 11, 2020) (granting motion to seal “limited” information); *see also Phillips*, 307 F.3d at 1211; *Williams v. Apple Inc.*, 2021 WL 2476916, at \*2–3 (N.D. Cal. June 17, 2021) (noting Apple’s narrowed sealing requests with “tailored redactions”); Dkt. No. 643 at 3 (finding Apple’s proposed redactions appropriate for an exhibit when redactions were “narrowly tailored” to “sensitive and confidential information”). Apple has only partially redacted limited information in the exhibit. *See Perry Decl.* ¶ 5.

For the foregoing reasons, there is good cause that warrants partially sealing Exhibit A to Epic's Motion.

## CONCLUSION

Apple respectfully requests that the Court seal the information identified in the accompanying declaration.

Dated: March 31, 2025

Respectfully submitted,

By: /s/ Mark A. Perry  
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